

ORDINANCE NO. 902

AN ORDINANCE AMENDING APPENDIX III OF THE CODE OF THE CITY OF MESQUITE, TEXAS, KNOWN AS THE COMPREHENSIVE ZONING ORDINANCE OF 1964; BY PROVIDING FOR A CONSTRUCTION OF THE USE CLASSIFICATION IN THE ZONING ORDINANCE TO THE EFFECT THAT SUCH USE CLASSIFICATIONS SHALL NOT PERMIT THE OPERATION OF FRUIT STANDS EXCEPT BY SPECIAL PERMIT; BY PROVIDING THAT THE RIGHT TO PUBLIC HEARING AND THE RIGHT OF NONCONFORMING USES SHALL REMAIN INVIOLETE; BY PROVIDING THAT LAND BEING USED AS A FRUIT STAND CONTRARY TO LAW SHALL NOT BE MADE LAWFUL AND LAND BEING USED LAWFULLY AS A FRUIT STAND SHALL NOT BE DEEMED UNLAWFUL BY REASON OF THIS ORDINANCE; BY PROVIDING A DEFINITION OF A FRUIT STAND; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS; AND BY DECLARING AN EMERGENCY.

WHEREAS the operation of fruit stands has become a problem due to the nature of such operation, including a cause of traffic congestion and a potential health hazard; and

WHEREAS such operation of fruit stands has created problems and hazards separate and distinct from other business operations necessitating individual consideration of location, parking facilities, traffic flow, physical plant and method of operation in order to protect the health, welfare and safety of the inhabitants of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Appendix III of the Code of the City of Mesquite, Texas, known as the Comprehensive Zoning Ordinance of 1964, is hereby amended to provide the following:

The use classifications of the Comprehensive Zoning Ordinance of 1964, shall, in addition to any other restriction, regulation or requirement contained therein, be construed not to allow the operation of a fruit stand as herein defined except where a special permit has been approved by the City Council as provided in Article XV of Appendix III of the City Code of Mesquite, Texas, known as the Special Permit Section of the Zoning Ordinance.

Provided, that the right to a public hearing and the right to a nonconforming use as provided in Article XIV of the Zoning Ordinance shall remain intact and no land being used as a fruit stand at the effective date of this ordinance shall be deemed a nonconforming use

if such use was otherwise lawful; and provided further, no land being used as a fruit stand at the effective date of this ordinance contrary to the law shall be deemed by reason of this ordinance to be a lawful use.

SECTION 2. "Fruit Stand" defined - The term "Fruit Stand" shall mean a retail or wholesale operation wherein the principal business activity consists of the buying, selling, storing or offering for sale fruit, vegetables, agricultural produce and other unprocessed foods.

SECTION 3. That should any word, phrase, sentence, paragraph, or section of this Ordinance be held to be invalid or unconstitutional, the remaining provisions of this Ordinance shall remain in full force and effect, as well as all other provisions of the City Code.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and upon conviction in the Corporation Court shall be subject to a fine not to exceed Two Hundred (\$200.00) dollars for each offense.


SECTION 5. The fact that the Code of the City of Mesquite, Texas, and the Comprehensive Zoning Ordinance of 1964, are inadequate to afford the necessary protection to the inhabitants of the City constitutes an urgency and an emergency for the preservation of the public health, safety and welfare of its citizens and requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite, Texas, on the 2nd day of November, A.D., 1970.



George Boyce  
Mayor

ATTEST:



Norma G. McGaughy  
City Secretary

APPROVED AS TO FORM:



Elland Archer  
City Attorney